IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

Crl.MC.No. 3111 of 2007()

C.C.No.84/1999 OF THE Judicial Magistrate of the First Class-I, Perinthalmanna

PETITIONER: 5th accused

THODERGOL SOMAN, S/O.ABOOBACKER HAJI,
VALAMPOOR AMSOM DESOM.

BY ADV. SRI.M.RAMESH CHANDER

RESPONDENTS:

STATE OF KERALA, REP. BY ITS PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3111 of 2007

Dated this the 9th day of October, 2007

O R D E R

The petitioner along with co-accused faced indictment for offences punishable, inter alia, under Sections 452 and 324 I.P.C. The co-accused have been found not guilty and acquitted in a trial held against them. As the petitioner was not available, he was not proceeded again. The case against him has been split up. Coercive processes have been issued against the petitioner. The petitioner, in these circumstances, has come before this Court for issue of directions under Section 482 Cr.P.C.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He is willing to surrender before the learned Magistrate and co-operate with the court for the expeditious disposal of the case against him. But the petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. Therefore it is prayed that appropriate directions under Section 482 Cr.P.C may be issued in his favour.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances

under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed. But with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

5. Needles to say that it shall be open to the petitioner to urge before the court below that the matter has been settled and that permission may be given to compound the compoundable offence. The petitioner can also claim discharge under Section 239/240 Cr.P.C relying on all the grounds which are available to him.

(R.BASANT, JUDGE)

rtr/-